

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

LORENZO CECIL GRAVES,

§

Petitioner,

§

v.

2:15-CV-0339

WILLIAM STEPHENS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

§

Respondent.

§

REPORT AND RECOMMENDATION
TO GRANT PETITIONER'S MOTIONS TO WITHDRAW
and TO DISMISS PETITION

Came for consideration the motions to withdraw filed by petitioner LORENZO CECIL GRAVES on December 21, 2015 and December 29, 2015. Due to ambiguity in the motions, the Court twice sought additional clarification as to whether petitioner was seeking to withdraw his petition and dismiss this case. The Court warned petitioner that if he was "actually seeking to 'withdraw' his habeas petition" and his request was granted, that this case would be dismissed and closed, and any future federal habeas corpus application petitioner submitted would be subject to the requisite filing fee as well as any statute of limitations. On February 8, 2016, petitioner confirmed, in writing, that he wants to withdraw his Petition for a Writ of Habeas Corpus and have this case closed.

RECOMMENDATION

It is the recommendation of the undersigned United States Magistrate Judge to the United States District Judge that petitioner's motions to withdraw be GRANTED, the petition for a writ of habeas corpus by a person in state custody filed by petitioner be withdrawn, and this case be DISMISSED.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Report and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 8th day of February 2016.


CLINTON E. AVERITTE
UNITED STATES MAGISTRATE JUDGE

*** NOTICE OF RIGHT TO OBJECT ***

Any party may object to these proposed findings, conclusions and recommendation. In the event parties wish to object, they are hereby NOTIFIED that the deadline for filing objections is fourteen (14) days from the date of filing as indicated by the "entered" date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(C), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(E). **Any objections must be filed on or before the fourteenth (14th) day after this recommendation is filed** as indicated by the "entered" date. See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b)(2); *see also* Fed. R. Civ. P. 6(d).

Any such objections shall be made in a written pleading entitled "Objections to the Report and Recommendation." Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the

unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), superseded by statute on other grounds, 28 U.S.C. § 636(b)(1), as recognized in *ACS Recovery Servs., Inc. v. Griffin*, 676 F.3d 512, 521 n.5 (5th Cir. 2012); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).